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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 THOMAS L.,

9 Plaintiff,

10 v.

11 COMMISSIONER OF SOCIAL SECURITY,

12 Defendant.

CASE NO. 2:18-cv-00342-BAT

**ORDER AFFIRMING AND  
DISMISSING WITH PREJUDICE**

13 Plaintiff seeks review of the denial of his application for disability benefits. He contends  
14 the Administrative Law Judge (ALJ) failed to properly evaluate medical opinion evidence,  
15 Plaintiff's allegations, and a lay witness statement, all of which impacted the ALJ's residual  
16 functional capacity assessment and finding that Plaintiff could perform other jobs at Step 5 of the  
17 sequential evaluation process. Plaintiff also contends that medical evidence submitted to the  
18 Appeals Council and admitted into the record (Tr. 14-25) further undermined the evidentiary  
19 basis of the ALJ's decision. The Court **AFFIRMS** the Commissioner's final decision and  
20 **DISMISSES** the case with prejudice.

**BACKGROUND**

21 On May 1, 2014, Plaintiff protectively filed an application for supplemental security  
22 income, alleging disability beginning November 21, 2011. Tr. 81-89. The claim was denied  
23 initially on July 22, 2014 (Tr. 127-130), and on reconsideration on November 24, 2014. Tr. 134-

1 136. On December 30, 2014, Plaintiff requested a hearing and on February 11, 2016, Plaintiff  
2 appeared and after waiving his right to representation, testified at a hearing before ALJ Cheri  
3 Filion. Judge Filion took testimony from the claimant and medical expert Frank Barnes, M.D.  
4 Tr. 626-679. After the hearing, ALJ Filion ordered a consultative examination of Plaintiff. When  
5 the results of this examination were proffered to Plaintiff, he requested a supplemental hearing.  
6 Because Judge Filion retired from the Agency before a supplemental hearing could be scheduled,  
7 the case was reassigned to ALJ Stephanie Martz, who held the supplemental hearing on October  
8 27, 2016. Michael W. Swanson, a vocational expert, also appeared at the hearing. Tr. 61-80.

9 Utilizing the five-step disability evaluation process,<sup>1</sup> the ALJ found, at step one, that  
10 Plaintiff has not engaged in substantial gainful activity since May 1, 2014, the application date  
11 (20 CFR 416.971 *et seq.*) (Ex. B6D, BSD) and at step two, that Plaintiff has the following severe  
12 impairments: obesity and degenerative disc disease of the lumbar and thoracic spine (20 CFR  
13 416.920(c)). At step three, the ALJ found that these impairments do not meet or equal a Listing.<sup>2</sup>  
14 Tr. 680. The ALJ found that Plaintiff has the residual functional capacity (“RFC”) to perform  
15 light work as defined in 20 CFR 416.967(b) except as follows:

16 [t]he claimant can lift up to 20 pounds occasionally and 10 pounds frequently. He  
17 can carry up to 20 pounds occasionally. Over an eight-hour day with regular  
18 breaks, he can sit three hours at a time for up to seven hours. He can stand 30  
19 minutes at a time up to two hours and walk 30 minutes at a time up to two hours  
20 over an eight-hour day. He needs to use a cane for ambulation greater than 50  
21 feet. The claimant can frequently reach (including overhead), and occasionally  
22 push/pull with his arms. He can occasionally operate a foot control with his right  
23 foot and frequently with his left foot. He can continually handle, finger, and feel.  
The claimant should never climb, balance, stoop, kneel, crouch, or crawl. The  
claimant can have occasional exposure to unprotected heights. He can have  
frequent exposure to moving mechanical parts. He can frequently operate a motor  
vehicle. The claimant can have continuous exposure to humidity, wetness, dusts,  
odors, pulmonary irritants, and extremes of temperature.

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<sup>1</sup> 20 C.F.R. §§ 404.1520, 416.920.

<sup>2</sup> 20 C.F.R. Part 404, Subpart P. Appendix 1.

1 Tr. 40-41. At step four, the ALJ found that Plaintiff has no past relevant work (20 CFR 416.965),  
2 but considering his age, education, work experience, and RFC, there are jobs that exist in  
3 significant numbers in the national economy that Plaintiff can perform (20 CFR 416.969 and  
4 416.969(a)), such as ticket seller, officer helper, and storage rental clerk. Tr. 44-45.

5 The Appeals Council denied Plaintiff's request for review of the ALJ decision on January  
6 5, 2018 (Tr. 1-5), making the ALJ's decision the final decision.

## 7 **DISCUSSION**

### 8 **A. The ALJ Did Not Err in Evaluating Medical Opinion Evidence**

9 Plaintiff contends the ALJ erred when she gave little weight to the opinions of his  
10 treating physicians, pain management specialists Adam Balkanay and Jennifer Lee and instead,  
11 gave significant weight to the opinions of two orthopedic specialists, Frank Barnes and Brian  
12 Snitily. Dr. Balkanay opined Plaintiff was severely limited and unable to meet the demands of  
13 sedentary work and Dr. Lee opined he would not succeed in immediately returning to fulltime  
14 work. Dr. Barnes and Dr. Snitily concluded Plaintiff could perform a reduced range of light level  
15 work. Plaintiff argues that because Drs. Balkany and Lee examined him on multiple occasions  
16 and reviewed imaging studies, they had the best clinical picture of his condition and functioning  
17 based on their unique perspective as treating sources throughout the relevant period.

18 Dr. Barnes, a medical expert and board certified orthopedic surgeon, testified at the  
19 February 2016 hearing. Tr. 469, 636-47. He concluded that Plaintiff would be limited to  
20 sedentary or light level work; could not stand more than a couple hours at a time; could lift/carry  
21 20 pounds; could occasionally bend, stoop, kneel, crawl, use foot controls, and climb ladders or  
22 ramps; and could occasionally be exposed extreme cold, vibration, and hazardous machinery. Tr.  
23 43, 638. Dr. Barnes did not find any evidence to support upper extremity limitations beyond

1 what Plaintiff could lift and carry. Tr. 43, 638. Dr. Barnes recommended that Plaintiff undergo a  
2 “detailed physical examination” because treating provider Dr. Balkany had never done a “full  
3 orthopedic evaluation.” Tr. 646-47.

4 One month later, Plaintiff underwent a comprehensive examination with physiatrist and  
5 sports management specialist Dr. Snitily, “an expert in the diagnosis and treatment of  
6 musculoskeletal and spine injuries.”<sup>3</sup> See Tr. 492-503. Plaintiff told Dr. Snitily that he was  
7 “limited in his ability to work related to back and bilateral lower extremity pain.” Tr. 492. On  
8 examination, Plaintiff was able to bend and squat; move from a sitting to standing position by  
9 leaning heavily on furniture; and take off his shoes. Tr. 42, 494-95. Plaintiff was positive for  
10 back pain and had some weakness and sensory changes in his left leg, but he had normal reflexes  
11 and range of motion in his neck, shoulders, wrists, hips, knees, and ankles. Tr. 42, 495-46.

12 Dr. Snitily concluded that Plaintiff could stand and walk for 30 minutes at a time up to  
13 two hours and sit for three hours at a time for up to seven hours. Tr. 40, 499. Plaintiff needed to  
14 use a cane to walk more than 50 feet. Tr. 40, 499. Plaintiff could lift up to 20 pounds  
15 occasionally and 10 pounds frequently, and carry up to 20 pounds occasionally. Tr. 40, 498. He  
16 could frequently reach, including overhead, and occasionally push/pull with his arms. Tr. 40,  
17 500. He could occasionally operate a foot control with his right foot and frequently with his left  
18 foot. Tr. 40, 500. Plaintiff could occasionally work from heights, but he should never climb,  
19 balance, stoop, kneel, crouch, or crawl. Tr. 40, 501-02. He could have frequent exposure to  
20 moving mechanical parts and frequently operate a motor vehicle. Tr. 40-41, 502. Plaintiff had no  
21 manipulative or other environmental restrictions. Tr. 40-41, 500-02. Dr. Snitily explained the  
22 basis for each limitation he assessed. Tr. 496-502.

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<sup>3</sup> <https://www.opaortho.com/snitily> (last visited November 15, 2018).

1 The ALJ gave significant weight to Dr. Barnes's opinion and adopted Dr. Snitily's  
2 opinion in its entirety. Tr. 43. The ALJ specifically found that Dr. Barnes's testimony was  
3 consistent with the overall record and that Dr. Snitily's opinion was supported by his  
4 examination findings. *Id.* This was not error as an examining doctor's opinion based on his own  
5 examination is substantial evidence. *See Tonapetyan v. Halter*, 242 F.3d 1144, 1149 (9th Cir.  
6 2001). And, an ALJ may give more weight to a doctor's opinion that aligns with the overall  
7 record. *See* 20 C.F.R. § 416.927(c)(4).

8 The ALJ rejected the opinions of Dr. Balkany and Dr. Lee because the record contained  
9 few, if any, objective findings to substantiate their opinions that Plaintiff is unable to function at  
10 work on a fulltime basis. Tr. 44. The ALJ noted their opinions were not supported by objective  
11 findings showing a loss of functioning, were inconsistent with Dr. Snitily's "more detailed  
12 examination" of Plaintiff, and were inconsistent with the 2011 lumbar MRI that revealed only  
13 mild to moderate degenerative changes and foraminal narrowing and with the 2016 lumbar spine  
14 x-ray that showed only early degenerative disc disease. Tr. 44, 326, 504. This was not error. A  
15 doctor's opinion may be rejected if it is unreasonable in light of other evidence in the record,  
16 *Morgan v. Comm'r of Soc. Sec. Admin.*, 169 F.3d 595, 601 (9th Cir. 1999), or lacks objective  
17 findings to support an opinion, *see Tommasetti v. Astrue*, 533 F.3d 1035, 1041 (9th Cir. 2008).  
18 ("The incongruity between Dr. Nachenberg's Questionnaire responses and her medical records  
19 provides an additional specific and legitimate reason for rejecting Dr. Nachenberg's opinion of  
20 Tommasetti's limitations.").

21 On the other hand, Dr. Snitily's opinion was based on a detailed physical examination of  
22 Plaintiff. Tr. 44. Dr. Snitily tested and provided detailed findings regarding Plaintiff's physical  
23 capacity, which is something Drs. Balkany and Lee did not do. Tr. 494-96. And, the opinions of

1 Drs. Snitily and Barnes, who specialized in evaluating Plaintiff's condition, dramatically differed  
2 from those of Drs. Balkany and Lee. *See Molina v. Astrue*, 674 F.3d 1104, 1112 (9th Cir. 2012)  
3 ("Wheelwright's opinion was inconsistent with that of Dr. Yost, who specialized in the relevant  
4 field of psychiatry, and whose opinion was therefore entitled to greater weight."). In fact, Dr.  
5 Snitily specifically reviewed Dr. Balkany's opinion and disagreed with it. Tr. 492. Dr. Balkany  
6 and Dr. Lee are both pain management specialists whereas, Dr. Barnes and Dr. Snitily are  
7 orthopedic specialists, who specialize in the actual condition Plaintiff claims is disabling. Tr. 43.  
8 Thus, it was not unreasonable for the ALJ to give greater weight to the "opinion of a specialist  
9 about medical issues related to his or her area of specialty" (*see* 20 C.F.R. § 416.927(c)(5)),  
10 particularly when the ALJ had noted the absence of objective findings to support the treating  
11 doctors opinions.

12 As noted by Defendant, not one of Plaintiff's examinations revealed deficits so  
13 significant as to preclude full-time sedentary work. Tr. 355-56, 359, 362, 365, 368, 371-72, 375,  
14 378, 381, 383, 385, 388-89, 391, 393-94, 396, 399-400, 402, 417, 421, 425, 454-55, 460, 464,  
15 524, 538, 551, 562-63, 577, 593, 595-96, 598, 601, 604, 607-08, 612. And, as noted by Dr.  
16 Barnes, neither Dr. Balkany nor Dr. Lee found "some significant weakness, or atrophy, that sort  
17 of thing" on examination to indicate that Plaintiff "couldn't do a thing," as they opined. Tr. 639.  
18 In addition, Dr. Lee did not conduct an examination during the visit in which she stated Plaintiff  
19 could not work full-time. Tr. 622-23.

20 Plaintiff argues that Drs. Balkany and Lee "considered factors beyond the objective  
21 evidence," such as his repeated reports of significant interference in activities of daily living,  
22 particularly his general activity, walking, and ability to work, from his impairments. Dkt. 15 at 5  
23 (citing Tr. 356, 359, 362, 365, 368, 372, 375, 379, 381, 383, 386, 389, 391, 394, 400, 403, 417,

1 421, 425). He notes “[b]oth physicians were aware of Plaintiff’s difficulty being upright for  
2 extended periods, even if they did not regularly note it in their treatment notes.” *Id.* (citing Tr.  
3 434, 603.) However, these are self-reports, and the ALJ is solely responsible for determining the  
4 credibility of a claimant’s self-reported symptoms and limitations. *Edlund v. Massanari*, 253  
5 F.3d 1152, 1156 (9th Cir. 2001).

6 The ALJ did not err in evaluating the medical opinion evidence.

7 **B. The ALJ’s Decision is Not Undermined by New Evidence**

8 Two months after the ALJ issued her adverse decision in December 2016, Plaintiff  
9 underwent a lumbar MRI in February 2017, which Plaintiff submitted to the Appeals Council.  
10 Tr. 2, 21-22. The Court will consider whether the ALJ’s decision remains supported by  
11 substantial evidence in light of new evidence submitted to the Appeals Council “so long as the  
12 evidence relates to the period on or before the ALJ’s decision.” *Brewes v. Comm’r of Soc. Sec.*  
13 *Admin.*, 682 F.3d 1157, 1162 (9th Cir. 2012). The Appeals Council denied Plaintiff’s request for  
14 review, stating that the 2017 MRI did “not relate to the period at issue” and thus did “not affect”  
15 the ALJ’s decision about whether Plaintiff was disabled on or before December 20, 2016. Tr. 2.

16 Plaintiff argues that the 2011 MRI, which showed only mild to moderate degenerative  
17 disc changes, was over four years before the first hearing. But the 2017 MRI, according to  
18 Plaintiff, specifically indicates changes not previously found, such as: “bilateral L5 root  
19 entrapment and left L4 foraminal root compression” and “degenerative Lumbar retolisthesis.” Tr.  
20 319 (citing Exh. B12F). Plaintiff argues that these changes would have been present in some  
21 degree in 2016 and were supportive of the opinions of Drs. Balkany and Lee that Plaintiff would  
22 not be able to engage in work activity on a sustained basis. Dkt. 15 at 7. There is, however, no  
23 medical evidence to support Plaintiff’s interpretation of the 2017 MRI results or to link the 2017

1 MRI results to any medical opinion.

2       The Court finds that this evidence is both relevant and related to the period before the  
3 ALJ because, as acknowledged by the Defendant, degenerative disc disease is a condition that  
4 develops over time. Dkt. 16 at 1. However, the question is whether there is a “reasonable  
5 possibility” that the new evidence would have changed the outcome of the administrative  
6 hearing. *Luna v. Astrue*, 623 F.3d 1032, 1034 (9th Cir.2010). Defendant argues that it would not  
7 because the results of the 2017 MRI do not significantly differ from those of the 2011 MRI; the  
8 recent 2016 x-ray of Plaintiff’s lumbar spine showed only “early” degenerative disc disease and  
9 was “[o]therwise negative” (Tr. 504); and most importantly, the 2017 MRI fails to show any  
10 decrease in Plaintiff’s physical functional capacity from that shown during the examination  
11 performed by Dr. Snitily in March 2016. Tr. 492-503. As correctly noted by Defendant, the  
12 overall impression of both the 2011 and the 2017 MRI, is that of multilevel degenerative disc  
13 disease – a disease the ALJ found to be a severe impairment and which the ALJ accounted for by  
14 limiting Plaintiff to a reduced range of light work. Tr. 21-22, 39-41, 46.

15       The Court finds that substantial evidence supports the ALJ’s decision, even considering  
16 the new evidence Plaintiff procured and submitted after the ALJ issued her non-disability  
17 determination. Therefore, the 2017 MRI does not undermine her determination of non-disability.

18 **C.     The ALJ Did Not Err in Evaluating Plaintiff’s Allegations**

19       In evaluating the effect of pain and other symptoms on Plaintiff’s RFC, the ALJ must  
20 determine if the Plaintiff’s medically determinable impairments could reasonably be expected to  
21 produce some of the alleged symptoms. *See* 20 C.F.R. § 404.1529. If so, the ALJ must next  
22 evaluate the intensity, persistence, and limiting effects of the symptoms to determine the extent  
23 to which they limit the Plaintiff’s capacity for work. *See id.* If there is no evidence of



1 malingering, the ALJ may reject Plaintiff's testimony about the severity of his symptoms only by  
2 making specific findings stating clear and convincing reasons supported by substantial evidence  
3 for doing so. *Smolen v. Chater*, 80 F.3d 1273, 1283-84 (9th Cir. 1996); *Rollins v. Massanari*, 261  
4 F.3d 853, 857 (9th Cir. 2001).

5         The ALJ reviewed Plaintiff's allegations of disabling limitations and provided several  
6 legally acceptable reasons for concluding that the evidence was not consistent with Plaintiff's  
7 allegations, *i.e.*, the objective medical evidence was inconsistent with Plaintiff's allegations of  
8 disabling limitations; Plaintiff's activities were inconsistent with disability; and Plaintiff had a  
9 poor work history. Tr. 41-43, 44. Even if the Court had found merit in Plaintiff's challenge to  
10 some of the ALJ's reasons, the unchallenged reason would render any error harmless. An error in  
11 the credibility analysis does not warrant remand if "the ALJ's remaining reasoning and ultimate  
12 credibility determination were adequately supported by substantial evidence in the record."  
13 *Carmickle v. Comm'r of Soc. Sec. Admin.*, 533 F.3d 1155, 1162-63 (9th Cir. 2008).

14         An ALJ may consider the lack of supporting objective evidence when evaluating an  
15 individual's complaints, as long as it is not the only factor considered. *Bray v. Comm'r of Soc.*  
16 *Sec. Admin.*, 554 F.3d 1219, 1227 (9th Cir. 2009). Plaintiff alleged weakness and muscle failure  
17 in his legs (Tr. 41, 69), but Dr. Snitily's examination showed Plaintiff had normal muscle tone  
18 and 4-5/5 strength in his legs (Tr. 495); Plaintiff also alleged that pain and numbness in his back  
19 and legs rendered him unable to sit for the length of any work shift (Tr. 41, 222), but his MRI  
20 and x-rays, showed only early mild to moderate degenerative disc disease (Tr. 42, 44, 326, 504).  
21 In addition, no physical examination supported Plaintiff's allegations of disabling pain (Tr. 355-  
22 56, 359, 362, 365, 368, 371-72, 375, 378, 381, 383, 385, 388-89, 391, 393-94, 396, 399-400,  
23 402, 417, 421, 425, 454-55, 460, 464, 494-96, 524, 538, 551, 562-63, 577, 593, 595-96, 598,

1 601, 604, 607-08, 612) and the record showed that Plaintiff's pain was well controlled with  
2 medication and/or injections (Tr. 41-42; 354; 367; 370 (lower back pain was "controlled" and  
3 Plaintiff asked to "decrease the muscle relaxer"); 385, 387; 418 (Dr. Balkany encouraged  
4 exercise of 20 minutes per day). "Impairments that can be controlled effectively with medication  
5 are not disabling." *Warre ex rel. E.T. IV v. Comm'r of Soc. Sec. Admin.*, 439 F.3d 1001, 1006  
6 (9th Cir. 2006).

7 Plaintiff does not dispute that this evidence was inconsistent with his complaints. Dkt. 15  
8 at 7-9. Instead, he argues that the 2017 MRI submitted to the Appeals Council retroactively  
9 supports his allegations of disability during the period under review. Dkt. 15 at 7-9. Again, there  
10 is no significant difference between the 2011 and 2017 MRIs of Plaintiff's lumbar spine, both of  
11 which were consistent with the 2016 x-ray of his lumbar spine showing early degenerative disc  
12 disease. Tr. 21-22, 326, 504. Nor does the MRI contradict Dr. Snitily's 2016 functional  
13 assessment. Tr. 492-503.

14 The ALJ also found that Plaintiff's activities were inconsistent with the level of his  
15 alleged symptoms. For example, Plaintiff alleged that he could not sit for any length of a work  
16 shift, but he was able to sit through the entire length of a movie at the theater. Tr. 44, 222, 226.  
17 The ability to sit for about two hours is consistent with Plaintiff's RFC for a reduced range of  
18 light work and inconsistent with his alleged inability to do even sedentary work. Tr. 40-41.  
19 Plaintiff also alleged being bed-ridden most days. Tr. 44, 223. Yet he could tend to his chickens,  
20 prepare meals, do laundry, clean, mow the lawn with a rider, drive unaccompanied, shop in  
21 stores, tumble rocks, and go to the movie theater. Tr. 44, 223-26. This supports a finding that  
22 Plaintiff "is capable of basic work like tasks that do not involve significant time being on his  
23 feet," as contemplated by his RFC. Tr. 44. *See Ghanim v. Colvin*, 763 F.3d 1154, 1165 (9th Cir.

2014) (“Engaging in activities that are incompatible with the severity of symptoms alleged can support an adverse credibility determination.”) Plaintiff argues that he did not engage in these activities for extended periods (Dkt. 15 at 10-11), but “[e]ven where those activities suggest some difficulty functioning, they may be grounds for discrediting the claimant’s testimony to the extent that they contradict claims of a totally debilitating impairment.” *Molina v. Astrue*, 674 F.3d 1104, 1113 (9th Cir. 2012). Plaintiff fails to show how his activities are inconsistent with his RFC, which limits him to a sedentary level of sitting, standing, and walking. Tr. 40. Thus, the ALJ reasonably considered the inconsistencies between Plaintiff’s allegations of disability and his activities.

The ALJ also noted that Plaintiff had a poor work history even prior to his alleged disability onset date, with earnings during only five of the past 22 years. Tr. 44, 196. *See, e.g., Thomas v. Barnhart*, 278 F.3d 947, 959 (9th Cir. 2002) (Plaintiff’s “‘extremely poor work history’” and “‘little propensity to work in [his] lifetime’ negatively affected [his] credibility.”) As Plaintiff did not challenge this reason, it is waived. Dkt. 15 at 7-11; *see Bray*, 554 F.3d at 126 n.7 (argument not made in party’s opening brief deemed waived).

The ALJ did not err in her assessment of Plaintiff’s testimony as her assessment was supported by specific, clear, and convincing reasons.

#### **D. The ALJ Did Not Err In Evaluating Lay Witness Testimony**

Mr. L.’s mother, Elizabeth L., provided a third party function report that included statements regarding the claimant’s activities of daily living and alleged functional limitations, which the ALJ found to be “generally consistent with the statements made by [Mr. L.]” As Ms. L. is a non-medical source witness, the ALJ considered Ms. L.’s statements as those of an “other source” pursuant to 20 CFR 404.1513(a) and (d), 20 CFR 416.913(a) and (d), and SSR 06-03p.).

1 The ALJ gave limited weight to Ms. L.'s statements because they were inconsistent with the  
2 objective medical evidence and medical opinions, but granted more weight to Ms. L.'s account  
3 of Plaintiff's activities of daily living due to the longitudinal nature of their relationship: "She  
4 noted that her son was able to take care of his five pet chickens, prepare meals, mow the yard, do  
5 laundry, and drive a car. Further, Ms. L. reported that [her son] was able to shop in stores and  
6 buy computer. His hobbies include playing on the computer and watching television on a daily  
7 basis (Ex. B6E)." Tr. 44.

8 Thus, the ALJ discounted Ms. L.'s statements where they were generally consistent with  
9 Plaintiff's allegations and where they were inconsistent with the objective medical evidence and  
10 opinions of specialists Drs. Barnes and Snitily. Tr. 44, 250-57. This was not error.

11 One germane reason is sufficient to discredit statements from a lay witness. *Valentine v.*  
12 *Comm'r Soc. Sec. Admin.*, 574 F.3d 685, 694 (9th Cir. 2009). When a lay witness's statements  
13 are similar to a claimant's complaints, the ALJ's reasons for rejecting a claimant's statements  
14 shall apply to the lay witness's statements. *Valentine*, 574 F.3d at 694. And, although lack of  
15 medical support for lay witness statements is not a reason to discredit them, *Diedrich v.*  
16 *Berryhill*, 874 F.3d 634, 640 (9th Cir. 2017), inconsistency with medical evidence is sufficient,  
17 *Bayliss v. Barnhart*, 427 F.3d 1211, 1218 (9th Cir. 2005). As noted above, the ALJ gave great  
18 weight to the opinions of Drs. Barnes and Snitily, which were based on their physical  
19 examinations of Plaintiff. In addition, an ALJ may reject a lay witness's statement that is  
20 contradicted by "more reliable medical evidence that the ALJ credited." *Molina*, 674 F.3d at  
21 1118-19.

22 Plaintiff offers no basis on which to conclude that the ALJ's evaluation of Ms. L.'s  
23 statements would alter the non-disability determination. Dkt. 15 at 11-12. The ALJ did not err in

1 evaluating Ms. L.'s testimony.

2 **CONCLUSION**

3 For the foregoing reasons, the Commissioner's decision is **AFFIRMED** and this case is  
4 **DISMISSED** with prejudice.

5 DATED this 19th day of November, 2018.

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9 BRIAN A. TSUCHIDA  
Chief United States Magistrate Judge